tion there seems sound reason for it. But the weight of authority is clearly the other way, and a judgment of the lower court is sufficient regardless of the finding on appeal. *State* v. *Alexander*, 76 N. C. 231, 22 Am. Rep. 675; *Hackett* v. *Freeman*, 103 Iowa 296, 72 N. W. 528.

SUBROGATION—FRAUDULENT CONVEYANCE—CONSTRUCTIVE NOTICE OF FRAUD.—A debtor conveyed land to his wife in fraud of a creditor who had obtained a judgment on his claim. The creditor filed a lis pendens giving notice that he would contest the conveyance on the ground of fraud. A third person, without actual notice of the fraud, bought the land from the debtor's wife, assuming and paying off a mortgage on same. The conveyance to the debtor's wife was set aside as fraudulent. *Held*, the purchaser is entitled to subrogation to the rights of the mortgagor whom he has satisfied. *Tibbetts* v. *Terrill* (Col. App.), 140 Pac. 936.

As a general rule, where one buys property and pays off incumbrances, he will be subrogated to the rights of the holders of such incumbrances against the holder of any subsequent incumbrance. *Smith* v. *Dinsmore*, 119 Ill. 656, 4 N. E. 648; *Simpson* v. *Ennis*, 114 Ga. 202, 39 S. E. 853. The subsequent incumbrances are subject to the satisfaction of the prior incumbrance, and the fact that a purchaser buys the property and pays off the prior incumbrances can in no way prejudice the rights of the subsequent lienors. *Davis* v. *John Farwell Co.* (Tex. Civ. App.), 49 S. W. 656. To refuse subrogation would be to unjustly enrich the subsequent lienor at the expense of one who has paid off the incumbrances to protect his title. And by the weight of authority subrogation will be granted whether the purchaser had notice of the subsequent incumbrances or not. *Tompkins* v. *Sprout*, 55 Cal. 31; *Davis* v. *John Farwell Co.* (Tex. Civ. App.), 49 S. W. 656. But it has been held that where one purchases property and assumes, as part of the purchase price, the payment of incumbrances thereon, he becomes the principal debtor, and when he pays off the incumbrances, they are thereby extinguished. *McDowell* v. *Jones Lumber Co.*, 42 Tex. Civ. App. 260, 93 S. W. 476; *De Roberts* v. *Stiles*, 24 Wash. 611, 64 Pac. 795. But it would seem that this rule is dependent upon the contract between the vendor and purchaser, and would have no application as to third parties. In some cases it has been evaded on the ground that when one has bought property and paid off a prior incumbrance on it without actual notice of subsequent lienors he did so for his own benefit and not for the benefit of the subsequent lienors. *Darrough* v. *Kraft Co. Bank*, 125 Cal. 272, 57 Pac. 983; *Capital National Bank* v. *Holmes*, 43 Col. 154, 95 Pac. 314.

SURETYSHIP AND GUARANTY—PAID SURETIES.—A bonding company was surety on a bond of a contractor, given for the completion of a building at a stated time. The company stipulated that it should not become liable unless given notice within thirty days of any default on the part of the contractor. The contractor made default, but no notice was given, and suit was brought on the bond. *Held*, the company is